ARC 5369C

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to Iowa prescription monitoring program and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 37, "Iowa Prescription Monitoring Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 124.554.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.551, 124.553 and 124.554 as amended by 2020 Iowa Acts, Senate File 2120.

Purpose and Summary

The proposed amendments implement changes made to the Iowa Code during the 2020 Legislative Session, including the reporting of Schedule V controlled substances to the database and veterinarian access to program data, and revise the definition of "health care professional."

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 19, 2021. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **657—37.2(124)**, definitions of "Controlled substance," "Health care professional" and "Reportable prescription," as follows:

"Controlled substance" means a drug in Schedules II through ~~IV~~ V set forth in Iowa Code chapter 124, division II.

"Health care professional" means a person who, by ~~education, training,~~ certification, registration, or licensure, is qualified to provide and is engaged in providing health care to patients. "Health care professional" does not include clerical or administrative staff. A health care professional shall be ~~licensed, registered, certified, or otherwise~~ credentialed in a manner that permits verification and regulation of the health care professional's credentials.

"Reportable prescription" means the record of a controlled substance administered or dispensed by a practitioner and the record of an opioid antagonist dispensed by a practitioner or administered by a first responder. "Reportable prescription" shall not include records identified in subrule 37.7(1). "Reportable prescription" shall include, but not be limited to:

1. to 3. No change.

4. The dispensing of a controlled substance sample; ~~and~~

5. The dispensing of a controlled substance or opioid antagonist to a patient upon discharge from a hospital or care facility~~.~~; and

6. The dispensing of a Schedule V controlled substance without a prescription pursuant to rule 657—10.33(124,155A).

ITEM 2. Adopt the following **new** definitions of "Client" and "Patient" in rule **657—37.2(124)**:

"Client" means the owner, owner's designee, or other person responsible for an animal patient.

"Patient" means a person or animal to whom a prescription is prescribed or dispensed.

ITEM 3. Adopt the following **new** paragraph **37.7(1)"d"**:

d. The sale by a licensed pharmacy of a Schedule V controlled substance without a prescription is subject to the reporting requirements of 657—Chapter 100.

ITEM 4. Amend rule 657—37.8(124) as follows:

657—37.8(124) PMP reporting—dispensing prescribers. Each dispensing prescriber, unless exempt pursuant to rule 657—37.7(124), shall submit to the PMP a record of each reportable prescription dispensed during a reporting period pursuant to subrule 37.12(2). For purposes of prescriber dispensing, the prescriber shall also be identified as the dispenser or pharmacy. A veterinarian may, but shall not be required to, submit to the PMP a record of reportable prescriptions dispensed by the veterinarian.

ITEM 5. Amend subrule 37.16(1) as follows:

37.16(1) *Prescribers.* A prescriber may access a patient's prescription history report; the prescriber's activity report; proactive alerts or system user notes, such as peer-to-peer communication; and NarxCare reports. A veterinarian with authority to prescribe controlled substances may access a current patient's or client's prescription history report if the veterinarian has a reasonable basis to suspect the client may be abusing drugs or mistreating an animal.

ITEM 6. Amend subrule 37.16(2) as follows:

37.16(2) *Pharmacists.*

a. A pharmacist may access a patient's or client's prescription history report; proactive alerts or system user notes, such as peer-to-peer communication; and NarxCare reports.

b. A pharmacist shall review a patient's prescription history report prior to dispensing a Schedule V controlled substance without a prescription pursuant to rule 657—10.33(124,155A).